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GAMBLING COMMISSIONGAMBLING COMMISSION
COMM & LEGAL DIVISION

In the Matter of Denial of the Application for) No. CR 2010-01331
a License to Conduct Gambling Activities of:)

Fizzie Mulligans,)
Spokane, Washington)

Applicant.)
_____)

**SETTLEMENT IN LIEU OF
ADMINISTRATIVE CHARGES****I.**

The applicant, Fizzie Mulligans, and the Washington State Gambling Commission enter into this Settlement in Lieu of Administrative Charges to resolve the administrative charges currently pending against the applicant, but not yet issued. Rick Day, Director, and Arlene Dennistoun, Staff Attorney, represent the Gambling Commission. Melvin Reisenauer, owner, represents the applicant.

II.

Fizzie Mulligans, 331 W. Hastings Road, Spokane, Organization Number 00-22239, has applied for license number 05-20966, authorizing Class "D" Punchboard/Pull-Tab activity.

The applicant was subject to compliance with state gambling laws and regulations when it submitted its application.

III.

There are sufficient grounds for the Gambling Commission to deny Fizzie Mulligans' application based on the following:

SUMMARY:

From at least August 27, 2010, through November 2, 2010, the applicant operated Punchboard/Pull-Tab activity without a license. It did so by mistakenly using an invalid license formerly held by the previous owner of Fizzie Mulligans.

FACTS:

1) In March 2008, Chapman Enterprises, owned by Sarah and Matt Chapman, organization number 00-21528, received gambling license number 05-20678, authorizing Class "D" Punchboard/Pull-Tab activity. In September 2009, Sarah Chapman notified Commission staff that she was now 100% owner and president of Chapman Enterprises.

- 2) On August 27, 2010, Sarah Chapman sold 100% of her shares in Chapman Enterprises to Melvin Reisenauer and Calvin Edwards. Mr. Reisenauer and Mr. Edwards each received 50% of the shares of Chapman Enterprises. Mr. Reisenauer and Mr. Edwards listed Ms. Chapman as Vice President of Chapman Enterprises believing that they could continue to operate Punchboard/Pull-Tab activity under license number 05-20678 until they applied for a new Punchboard/Pull-Tab license.
- 3) Because neither Mr. Reisenauer nor Mr. Edwards had previously held ten or more percent ownership in Chapman Enterprises immediately before the sale of shares, under WAC 230-06-108, Chapman Enterprises' license number 05-20678 became void. As a result, Mr. Reisenauer and Mr. Edwards were required to obtain a new gambling license and stop operating Punchboard/Pull-Tab activity at Fizzie Mulligan's. However, the applicant did not stop operating Punchboard/Pull-Tab activity.
- 4) In September 2010, the estate of Calvin Edwards transferred all of its shares to Mr. Reisenauer, which made Mr. Reisenauer 100% owner of Chapman Enterprises.
- 5) On October 25, 2010, Chapman Enterprises, owned by Mr. Reisenauer, applied for a Punchboard/Pull-Tab license.
- 6) The applicant stopped operating Punchboard/Pull-Tab activity on November 2, 2010, when a Commission Special Agent (agent) told the applicant that it could not operate under the former owner's gambling license.
- 7) Using the applicant's pull-tab records, the agent confirmed that the licensee operated Punchboard/Pull-Tab activity from September 1, 2010, through November 2, 2010, without a gambling license, in violation of RCW 9.46.160.

GROUND FOR DENIAL/VIOLATIONS:

RCW 9.46.075 Denying, suspending, or revoking an application, license or permit

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein: (The following subsections apply.)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

RCW 9.46.160 Conducting activity without license.

Any person who conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license issued by the commission shall be guilty of a class B felony. If any corporation conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license issued by the commission, it may be punished by forfeiture of its corporate charter, in addition to the other penalties set forth in this section.

WAC 230-06-108 Ownership changes — Prohibited.

All gambling licenses held by a business will become void when the following changes in ownership occur and a new license must be obtained before operating any gambling activities:

- (1) A person or business becomes the owner of more than fifty percent of corporate stock or limited liability membership shares/units, when the person or business did not have at least the following substantial interest in the business immediately before the transaction: (a) Ten or more percent ownership in a privately held corporation or limited liability company (LLC); or (b) Five or more percent ownership in a publicly traded corporation or LLC; or
- (2) The business is sold; or
- (3) A sole proprietorship brings in a new person and forms a partnership, corporation or LLC; or
- (4) A partnership adds another partner or changes partners; or
- (5) A change in a person's ownership, together with ownership of any members of his or her immediate family, who are under the age of eighteen years of age, results in the person having more than fifty percent interest in the business when the person did not have at least the following substantial interest in the business: (a) Ten or more percent ownership in a privately held corporation or LLC; or (b) Five or more percent ownership in a publicly traded corporation or LLC.

The applicant operated Punchboard/Pull-Tab activity from September 1, 2010, through November 2, 2010, without a gambling license. Therefore, grounds exist to deny Fizzie Mulligans' application under RCW 9.46.075(1) and WAC 230-03-085(1).

IV.

The applicant, Fizzie Mulligans, acknowledges that it violated Commission rules, and has indicated its willingness to comply with gambling rules and regulations. In lieu of formal proceedings the parties agree to settle this matter under the following terms:

- 1) The applicant acknowledges that its punchboard/pull-tab license is pending final approval by the Commission.
- 2) The parties agree that after obtaining licensure, Fizzie Mulligans' license is suspended for a period of **fifteen (15) days**, provided that:

- a) **Five (5) days** of the suspension shall not be currently served, but shall be deferred for a period of one (1) year from the date of entry of this Settlement, subject to the following: Fizzie Mulligans must not violate Washington's gambling statutes or rules during the one (1) year term. If the applicant violates such statutes or rules, and if the violation is the type that warrants the filing of administrative charges, then the Director may impose up to five (5) days of the deferred suspension on the current gambling license(s), and any subsequently acquired gambling licenses.
- b) The parties agree that the Director of the Washington State Gambling Commission, pursuant to this Settlement, has sole discretion to determine whether the licensee has violated any term of this Settlement. In the event the Director determines a violation has occurred, he may suspend the license(s) issued to Fizzie Mulligans by mailing or delivering a Notice of Order of Administrative Charges to the licensee. In addition to the consequences of the new violation, the licensee shall serve all, or part of the deferred sentence. The licensee shall have the opportunity to request an adjudicative proceeding, which includes a hearing on the alleged violations.
- c) Pursuant to RCW 9.46.077, the applicant has chosen to vacate the remaining **ten (10) days** of this suspension by paying a monetary penalty of **seven hundred and twenty dollars (\$720)** which represents 50% of the licensee's net gambling receipts for ten days, based on information reported on pull-tab records from September 1, 2010, through November 2, 2010, when the applicant operated gambling activities without a gambling license.
- d) The applicant also agrees to reimburse the Commission for its investigative and administrative costs of **one thousand, one hundred and seventy-six dollars (\$1,176)**, for a total penalty of **one thousand, eight hundred and ninety-six dollars (\$1,896)**. The applicant shall pay this total penalty no later than **December 9, 2010**, by **mailing** payment to Commission Headquarters at the following address:

Washington State Gambling Commission
Attn: Communications and Legal Division
P.O. Box 42400
Olympia, WA 98504-2400;


or **delivering** (in person or via private courier) payment to Commission Headquarters at the following address:


Washington State Gambling Commission
Attn: Communications and Legal Division
4656 7th Avenue SE
Lacey, WA 98503


2) If the applicant makes its payment by the date agreed to in this settlement, this matter will be deemed closed. If the applicant fails to timely make its payment, staff will not recommend approval of the license application, and Fizzie Mulligans' application will not be forwarded to the Commission for approval.

DATED this 6th day of December, 2010.

AGREED TO BY:


Melvin Reisenauer, Owner
Chapman Enterprises


Rick Day, Director
Washington State Gambling Commission


Melinda Froud, Lead Staff Attorney
Washington State Gambling Commission